

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

<h1 style="margin:0;">FSIS NOTICE</h1>	39-04	7/21/04
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FIREARMS AT THE WORKSITE

I. PURPOSE

This notice provides Agency policy and guidance on the presence of firearms by the regulated industry at worksites where Agency employees perform their official duties and responsibilities. (**NOTE:** The term regulated industry includes a private business, official establishment, facility, or any other entity under Agency regulated authority.)

II. BACKGROUND

A. All Agency employees represent the United States Department of Agriculture (USDA). Employees must perform their official duties and responsibilities in a manner that upholds high standards of honesty, integrity, and impartiality. All employees must perform their duties and responsibilities in a proper, professional and safe working environment, free of unreasonable distractions, including distractions that pose a risk to safety and personal security.

B. This notice supplements guidance for reporting firearms incidents in FSIS Directive 4735.4, Reporting Assault, Threats, Intimidation, or Interference.

III. POLICY

It is Agency policy to protect employees from assault, harassment, interference, intimidation, or threats related to or the results of performing their official duties and responsibilities. The Agency will not tolerate careless or indiscriminate handling, storage, jokes, horseplay or belligerent or hostile exchanges involving firearms. All employees and clients (i.e., customers, contractors and visitors) at the worksite should have a positive, respectful, productive and safe working environment.

DISTRIBUTION:	NOTICE EXPIRES:	OPI:
All Field Employees; All Offices	August 1, 2005	LERD - Office of the Director

IV. LEGAL POSSESSION OF FIREARMS

A. The presence of firearms by the regulated industry and at other worksites where employees carry out their duties and responsibilities is not uncommon. A wide variety of Federal, State, and local laws govern firearms possession.

B. An individual or the regulated industry may have a firearm on the worksite for specific usage. The presence of a firearm does not constitute an act of assault, harassment, interference, intimidation, or threat under the Federal Meat Inspection Act (FMIA), Poultry Products Inspection Act (PPIA), Egg Products Inspection Act (EPIA), or Title 18 of the United States Code, Crimes and Criminal Procedures. The Agency does not have a legal basis to prohibit or restrain firearm possession if:

1. The possession of a firearm by an individual of the regulated industry or at other worksites complies with Federal, State, or local laws, **and**

2. The firearm is not used in a manner to assault, harass, interfere, intimidate, or threaten employees while performing their official duties and responsibilities.

C. The regulated industry and other worksites may have firearms for security purposes or for the control or downing of animals. The use of firearms for these purposes is allowable; however, employees should receive advance knowledge of the presence of firearms.

D. The regulated industry may impose controls on firearm possession on their property. The Agency encourages the regulated industry to reevaluate the need to keep firearms at their place of business, where firearms are legally and necessarily kept, and assure firearms are properly secured.

V. FIREARM PROHIBITIONS

A. Under no circumstances are regulated industry personnel or other individuals allowed to bring firearms into a Government office or any worksite unless Federal, State, or local laws (i.e. law enforcement officers) permit such entry.

B. Employees may not possess firearms in any USDA laboratory, office, Government-owned vehicle, privately owned vehicle used while on official government business, or official worksite.

VI. AGENCY ACTIONS

A. Agency management officials determine:

1. When the presence or use of firearms may constitute a violation of the criminal provisions of our statutes.

2. Whether to refer an incident for court action.

3. When the threat posed meets the provisions of FSIS Directive 4735.4.

B. Agency management officials determine referrals to the Office of Program Evaluation, Enforcement, and Review (OPEER) when indiscriminate handling or storage of firearms violates the FMIA, PPIA, EPIA, or Title 18.

C. The highest level management official at the worksite (including in-plant inspection offices with one or more employees) ensures the Title 18 poster is on display at the entryway of each Federal or Government leased building or office housing Agency employees. Order the poster from the Beltsville Field Supply Center, using item number GSADC-8911101946.

VII. SAFETY PROCEDURES

Employees:

A. **Shall use good judgment** to identify actions or statements involving firearm usage in a manner to assault, harass, interfere, intimidate, or threaten employees performing their official duties and responsibilities or poses a risk to personal safety. All employees are accountable if they are aware of a potentially harmful situation and fail to take appropriate action immediately.

B. **Must remove themselves from danger, contact local law enforcement officials immediately, and follow FSIS Directive 4735.4** any time there is an assault, harassment, interference, intimidation, threat, or danger involving or referencing a firearm.

C. **May refuse to engage in conversations or conduct meetings with regulated industry:**

1. When firearms are present or used inappropriately.
2. If an employee believes the presence of a firearm involves an unreasonable risk due to past instances of carelessness or questionable indiscriminate behavior.

D. **May ask regulated industry personnel to secure or remove any firearm if:**

1. The firearm is displayed or presented in a manner that is threatening or intimidating.
2. Regulated industry personnel show signs of anger or hostility toward employees.

E. **May curtail normal processes and take any of the following actions** if the presence of firearms interferes in discussing and resolving issues:

1. Suspend discussions of noncompliance issues or move the discussion to another location where a firearm is not present, as appropriate.
2. Seek law enforcement assistance as backup.
3. Withhold the marks of inspection if there is potential for or imminent danger.

VIII. **DOCUMENTING AND REPORTING FIREARM INCIDENTS**

A. **Documenting Firearm Incidents.** Employees are to follow the policy and procedures provided in FSIS Directive 4735.4 to document incidents of assault, harassment, interference, intimidation, or threats involving or relating to firearms.

B. **Reporting Firearm Incidents.** Employees will:

1. Report firearm incidents to:
 - a. Their immediate supervisor or next higher level supervisor if the immediate supervisor is not available .
 - b. District Manager if the lower level supervisors are not available, or other appropriate management official(s).
 - c. Workplace Violence Prevention and Response Branch (WVPRB). You may reach the WVPRB on the toll-free, 24-hour pager number at 888-894-6217 or in the office at 202-690-1999.
2. Report firearm incidents to the WVPRB if you feel or are concerned Federal, State or local laws are violated. Request immediate assistance from local law enforcement and the Office of the Inspector General (OIG).
3. Refer questions on the application of this notice to the Branch Chief or appropriate Workplace Violence Analyst. FSIS Directive 4735.4 identifies workplace violence officials. Also refer to the laminated wallet reference card and Preventing Workplace Violence, A Guide for FSIS Employees. If action on a reported firearm incident is not taken, employees may call the next higher level supervisor, a Workplace Violence Analyst or the WVPRB.

IX. **WITHHOLDING AND SUSPENDING INSPECTION**

A. The Agency may withhold the mark of inspection and suspend employee assignments, according to 9 CFR Part 500, Rules of Practice, when employees are not able to perform their duties and responsibilities due to assault, harassment, interference, intimidation, or threat by regulated industry personnel. Management officials coordinate withholding and suspension actions through the District Manager.

B. Withholding and suspension actions are designed to protect employees. Withholding or suspension actions are lifted when the Agency determines that the regulated industry took the necessary steps to ensure employees are safe and able to perform their official duties and responsibilities without assault, harassment, interference, intimidation, or threat.

X. **CRIMINAL PENALTIES**

A. The FMIA, PPIA, and EPIA each provide for criminal penalties.

B. Assaults of or threats to Government officials may also violate the provisions of Title 18 of the United States Criminal Code. The United States District Courts impose criminal penalties.

C. Allegations of criminal violations or information requiring investigation are referred to OPEER or OIG.

for 
Assistant Administrator
Office of Management